



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY
STATE CAPITOL

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JUDICIAL ETHICS OPINION JE - 106

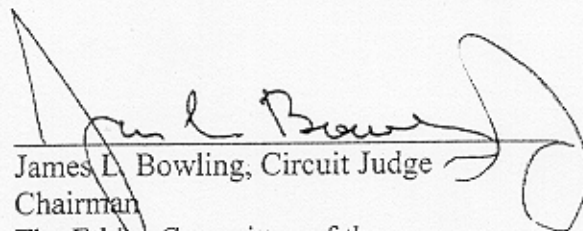
October 1, 2004

Question : To what extent has the United States Supreme Court Opinion Republican Party of Minnesota v. White impacted the political speech clause of Kentucky's Canon 5 of the Code of Judicial Conduct.

Answer: Kentucky's Code of Judicial Conduct has not been affected in any way by the United States Supreme Court case Republican Party of Minnesota v. White. Kentucky's "announce" clause was repealed in 1996 and replaced with a new rule. Under the new rule, judges may not make statements that "commit or appear to commit" them concerning social, political and legal issues that are likely to appear before them in court.

The political speech clause of Canon 5 of Kentucky's Code of Judicial Conduct has not been affected in any way by the United States Supreme Court case Republican Party of Minnesota v. White. Justice Scalia, who authored the opinion, stated specifically that only the announce clause was being considered and that only the announce clause was found to be unconstitutional. No ruling was made regarding the newer rule characterized by the "commit or appear to commit" language. Kentucky repealed the announce clause in 1996. Since that time, Kentucky's Code of Judicial Conduct has restricted judges and judicial candidates only from making statements that commit or appear to commit them to social, legal and political issues that might appear before them in court.

Shortly after the Minnesota v. White opinion was released both the Judicial Conduct Commission and the Judicial Ethics Committee issued statements that Kentucky's political speech rule was not affected by the case. The intent of this opinion is only to reaffirm that statement.

A handwritten signature in dark ink, appearing to read "James L. Bowling", is written over a horizontal line. The signature is stylized with a large, sweeping loop at the end.

James L. Bowling, Circuit Judge
Chairman
The Ethics Committee of the
Kentucky Judiciary